

ALERT

President Trump Withdraws from Iran Nuclear Deal; U.S. Sanctions to be Re-Imposed

May 8, 2018

President Trump today announced the United States' withdrawal from participation in the Joint Comprehensive Plan of Action (JCPOA), the landmark 2015 agreement that eased sanctions on Iran in exchange for curbs on Iran's nuclear program. Pursuant to the withdrawal, President Trump has directed his Administration to immediately begin the process of re-imposing sanctions against Iran, targeting the Iranian energy, petrochemical, and financial sectors. While the U.S. government will provide wind-down periods for activities involving Iran that were previously consistent with U.S. law, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) expects that all U.S. nuclear-related sanctions that were previously lifted will be re-imposed and in full effect by November 4, 2018. Many of these "secondary" sanctions act as an ultimatum to non-U.S. companies—if such companies engage in certain business with Iran, they effectively can be cut off from doing business in the United States. As such, President Trump's actions likely will have ripple effects outside the United States, particularly in Europe, where many companies re-engaged with Iran in accordance with the terms of the JCPOA.

OFAC guidance indicates that the U.S. government will provide two wind-down periods for entities engaged in business involving Iran. The first is a **90-day wind-down period, ending August 6, 2018**, after which the United States will re-impose sanctions on:

- The purchase or acquisition of U.S. dollar banknotes by the Government of Iran;
- Iran's trade in gold or precious metals;
- The direct or indirect sale, supply, or transfer to or from Iran of graphite, raw, or semi-finished metals such as aluminum and

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Practice Areas

International Trade

steel, coal, and software for integrating industrial processes;

- Significant transactions related to the purchase or sale of Iranian rials, or the maintenance of significant funds or accounts outside the territory of Iran denominated in the Iranian rial;
- The purchase, subscription to, or facilitation of the issuance of Iranian sovereign debt; and
- Iran's automotive sector.

After August 6, 2018, the U.S. government will also revoke previously-issued authorizations permitting the importation of Iranian-origin carpets and foodstuffs, as well as its favorable licensing policy for activities related to commercial passenger aircraft, a key linchpin of the JCPOA. Additionally, OFAC plans to revoke any specific licenses issued pursuant to the favorable licensing policy for commercial passenger aircraft.

The second **180-day wind-down period will end on November 4, 2018**, after which the United States will re-impose sanctions on:

- Iran's port operators, and shipping and shipbuilding sectors, including on the Islamic Republic of Iran Shipping Lines (IRISL), South Shipping Line Iran, or their affiliates;
- Petroleum-related transactions with, among others, the National Iranian Oil Company (NIOC), Naftiran Intertrade Company (NICO), and National Iranian Tanker Company (NITC), including the purchase of petroleum, petroleum products, or petrochemical products from Iran;
- Transactions by foreign financial institutions with the Central Bank of Iran and designated Iranian financial institutions under Section 1245 of the National Defense Authorization Act for Fiscal Year 2012 (NDAA);
- The provision of specialized financial messaging services to the Central Bank of Iran and Iranian financial institutions described in Section 104(c)(2)(E)(ii) of the Comprehensive Iran Sanctions and Divestment Act of 2010 (CISADA);
- The provision of underwriting services, insurance, or reinsurance; and
- Iran's energy sector.

In addition, OFAC **plans to revoke General License H**, the broad authorization that previously allowed U.S.-owned or -controlled foreign entities to engage in certain activities involving Iran. OFAC has indicated that it intends to issue wind-down authorization for activities conducted pursuant to General License H, and that all such wind-down activities must be completed by November 4, 2018.

OFAC's guidance states that the agency generally will permit non-U.S., non-Iranian persons owed payment at the conclusion of the applicable wind-down period for goods or services fully delivered prior to the deadline pursuant to a pre-May 8 written agreement to receive payment for such goods or services, provided the underlying activities were consistent with U.S. sanctions at the time of delivery/performance. Further, note that typically, wind-down activities do not cover "new" transactions. Although OFAC did not directly address this issue in its initial guidance, the agency warned that

[w]hen considering a potential enforcement or sanctions action with respect to activities engaged in after August 6, 2018, or November 4, 2018, as applicable, OFAC will evaluate efforts and steps taken to wind down activities and will assess whether any new business was entered into involving Iran during the applicable wind-down period.

Stay tuned for additional guidance from OFAC and the Department of State as the agencies begin the process of implementing the President's decision.